

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

**ORDER DISMISSING CASE;  
CERTIFYING THAT AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH;  
NOTIFYING MERRITT OF THE APPELLATE FILING FEE;  
NOTIFYING MERRITT OF THE COURT'S STRIKE RECOMMENDATION UNDER  
28 U.S.C. § 1915(g);  
AND CLOSING CASE**

On September 13, 2021, Plaintiff Robert Andrew Merritt filed a *pro se* civil complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1 (the “Complaint”).) On October 27, 2021, Merritt filed a first amended complaint. (ECF No. 5 (the “FAC”).) On October 28, 2021, Merritt paid the civil filing fee. (ECF No. 6.) On March 2, 2022, Merritt filed a second amended complaint. (ECF No. 7 (the “SAC”).) On April 25, 2022, Merritt notified the Court that he had been released from confinement. (ECF No. 11.) Merritt provided his new address. (*Id.*)<sup>1</sup>

On May 23, 2022, the Court (1) dismissed the Consolidated Amended Complaint (ECF Nos. 1, 5 & 7) without prejudice, (2) granted leave to amend within twenty-one (21) days, (3)

<sup>1</sup> When Merritt filed the Complaint, he was confined at the Northwest Correctional Complex (the “NWCX”) in Tiptonville, Tennessee. (ECF No. 1-2 at PageID 6.) When he filed the FAC and the SAC, Merritt was confined at the Riverbend Maximum Security Institution (the “RMSI”) in Nashville, Tennessee. (ECF No. 5-2 at PageID 14; ECF No. 7 at PageID 29; ECF No. 7-1 at PageID 84.)

denied Merritt's pending motions (ECF Nos. 8 & 9), and (4) ordered Merritt to notify the Clerk in writing of the last known addresses for each of the Six Defendants<sup>2</sup> and for Defendant William McNeely (the "Addresses") within fifteen (15) days of the date of entry of the May 23, 2022 Order. (ECF No. 12 ("the Screening Order").) The Clerk mailed a copy of the Screening Order to Merritt at his address of record in San Antonio, Texas (*see* ECF No. 11). The Screening Order warned Merritt that "[i]f [he] fails to timely provide the Six Defendants' and Defendant McNeely's addresses within fifteen (15) days of the date of this Order, Merritt's failure may result in the dismissal of Merritt's claims against those Defendants without further notice." (ECF No. 12 at PageID 117.)

Merritt's deadline to submit the Addresses was Tuesday, June 7, 2022. (*See* ECF No. 12 at PageID 116-17.) He has not submitted the Addresses or sought an extension of time to do so.

Merritt's deadline to submit amended claims was Monday, June 13, 2022. He has not submitted amended claims or sought an extension of time to do so.

For these reasons, and for the reasons discussed in the Screening Order, the Court DISMISSES this case with prejudice in its entirety. The Court recommends that this dismissal be treated as a strike pursuant to 28 U.S.C. § 1915(g). *See Simons v. Washington*, 996 F.3d 350, 353 (6th Cir. 2021). (*See also* ECF No. 12 at PageID 115 (warning Merritt that if he failed to amend his claims in a timely manner, the Court would dismiss the case, enter judgment, and recommend that the dismissal be treated as a strike under § 1915(g))).

Judgment will be entered in accordance with the Screening Order.

Pursuant to Federal Rule of Appellate Procedure 24(a) and 28 U.S.C. § 1915(a)(3), it is CERTIFIED that any appeal in this matter by Merritt would not be taken in good faith. If

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<sup>2</sup> The phrase "Six Defendants" refers to: Freddie Thomas; Scotty Gross; Jacqueline Hagen; Sonia Little; the State of Tennessee; and the Tennessee Department of Correction. (*See* ECF No. 12 at PageID 116.)

Merritt nevertheless chooses to file a notice of appeal, Merritt must either: pay the entire \$505 appellate filing fee; or, if he is confined at that time, submit a new *in forma pauperis* affidavit and a current, certified copy of his inmate trust account statement for the last six months, in compliance with 28 U.S.C. §§ 1915(a)-(b).

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED, this 17th day of April, 2023.

/s/ *Samuel H. Mays, Jr.*  
SAMUEL H. MAYS, JR.  
UNITED STATES DISTRICT JUDGE